

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 535

Introduced by Synowiecki, 7

Read first time January 14, 2005

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section
2 28-310, Reissue Revised Statutes of Nebraska, and section
3 28-323, Revised Statutes Supplement, 2004; to change
4 provisions relating to assault in the third degree and
5 domestic assault in the third degree; and to repeal the
6 original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-310, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-310. (1) A person commits the offense of assault in
4 the third degree if he or she:

5 (a) Intentionally, knowingly, or recklessly causes bodily
6 injury to another person; or

7 (b) Threatens another in a menacing manner.

8 (2) ~~Assault~~ Except as provided in subsection (3) of this
9 section, assault in the third degree shall be is a Class I
10 misdemeanor unless committed in a fight or scuffle entered into by
11 mutual consent, in which case it ~~shall be~~ is a Class II
12 misdemeanor.

13 (3) Assault in the third degree is a Class IV felony for
14 a second or subsequent offense committed within the twelve-year
15 period following a conviction under this section.

16 Sec. 2. Section 28-323, Revised Statutes Supplement,
17 2004, is amended to read:

18 28-323. (1) A person commits the offense of domestic
19 assault in the third degree if he or she:

20 (a) Intentionally, and knowingly, or recklessly causes
21 bodily injury to his or her intimate partner; or

22 (b) ~~Places, by physical menace, his or her intimate~~
23 ~~partner in fear of imminent bodily injury~~ Threatens his or her
24 intimate partner in a menacing manner.

25 (2) A person commits the offense of domestic assault in
26 the second degree if he or she intentionally, ~~and~~ knowingly, or
27 recklessly causes bodily injury to his or her intimate partner with
28 a dangerous instrument.

1 (3) A person commits the offense of domestic assault in
2 the first degree if he or she intentionally and knowingly causes
3 serious bodily injury to his or her intimate partner.

4 (4) Violation of subsection (1) of this section is a
5 Class I misdemeanor, except that for any second or subsequent
6 violation of such subsection within twelve years after the date of
7 the current conviction, any person so offending against ~~the same~~
8 any intimate partner is guilty of a Class IV felony.

9 (5) Violation of subsection (2) of this section is a
10 Class IIIA felony, except that for any second or subsequent
11 violation of such subsection within twelve years after the date of
12 the current conviction, any person so offending against ~~the same~~
13 any intimate partner is guilty of a Class III felony.

14 (6) Violation of subsection (3) of this section is a
15 Class III felony, except that for any second or subsequent
16 violation under such subsection within twelve years after the date
17 of the current conviction, any person so offending against ~~the same~~
18 any intimate partner is guilty of a Class II felony.

19 (7) For purposes of this section, (a) intimate partner
20 means a spouse; a former spouse; persons who have a child in common
21 whether or not they have been married or lived together at any
22 time; and persons who are or were involved in a dating
23 relationship, and (b) ~~For purposes of this subsection,~~ dating
24 relationship means frequent, intimate associations primarily
25 characterized by the expectation of affectional or sexual
26 involvement, but does not include a casual relationship or an
27 ordinary association between persons in a business or social
28 context.

1 (8)(a) When a court dismisses a charge filed under this
2 section or a prosecutor moves to dismiss a charge filed under this
3 section, the reasons for the dismissal shall be recorded in the
4 court record.

5 (b) A court shall not dismiss a charge filed under this
6 section for the sole reason that a civil compromise or settlement
7 has been reached.

8 Sec. 3. Original section 28-310, Reissue Revised
9 Statutes of Nebraska, and section 28-323, Revised Statutes
10 Supplement, 2004, are repealed.